

**TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE**



FISCAL NOTE

HB 141

March 27, 2011

SUMMARY OF BILL: Increases the classification, from a Class A misdemeanor to a Class E felony, for the offense of driving under the influence (DUI) while accompanied by a child under the age of 18. Requires the court to report the name of such an offender to the Department of Children's Services (DCS), if the person was the child's parent or legal guardian at the time of the offense.

ESTIMATED FISCAL IMPACT:

Increase State Expenditures - \$478,000/Incarceration*

Assumptions:

- Under present law, DUI is a Class A misdemeanor. If at the time of the offense, the person was accompanied by a child under the age of 18, the person must be sentenced to a mandatory minimum incarceration of 30 days and a mandatory minimum fine of \$1,000. The minimum incarceration and fine will still apply pursuant to this offense.
- According to the *Cost of Drinking and Driving Publication* by the Department of Safety, approximately 50 percent of all children killed in motor vehicle crashes are victims of alcohol-related crashes as reported by the National Highway Traffic Safety Administration.
- As reported in the *Traffic Fatalities Among Children Age 14 and Under*, by state and age group, Tennessee had 29 child fatalities in 2009. The Department of Correction (DOC) estimates 50 percent of those (15) were alcohol-related.
- According to the U.S. Census Bureau, population growth in Tennessee has been 1.12 percent per year for the past 10 years, yielding a projected compound population growth of 11.78 percent over the next 10 years. Population growth will result in two additional offenders in the tenth year. The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on 17 offenders receiving a Class E felony rather than a misdemeanor as a result of this bill.
- According to DOC, the average operating cost per offender per day for calendar year 2011 is \$60.62. The average post-conviction time served for a Class E felony is 1.27 years (463.87 days) at a cost of \$28,119.80 (\$60.62 x 463.87). The total additional operating cost for 17 offenders is \$478,036.66 (\$28,119.80 x 17).
- According to DCS, there will be no additional fiscal impact on the Department from the requirement that the court must report such violations to DCS.

- The increase in classification for some offenses from a Class A misdemeanor to a Class E felony would result in a slight decrease in the number of prosecutions in general sessions courts. The decrease in revenue and expenditures to local government will not be significant.

**Tennessee Code Annotated, Section 9-4-210, requires that: For any law enacted after July 1, 1986, which results in a net increase in periods of imprisonment in state facilities, there shall be appropriated from recurring revenues the estimated operating cost of such law. The amount appropriated from recurring revenues shall be based upon the highest cost of the next 10 years.*

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



James W. White, Executive Director

/lsc